

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

381J0464

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1175** - 01/28/2004

Introduced by: Representatives Madsen, Cutler, Haverly, Michels, and O'Brien and Senators Earley, Bogue, McCracken, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to establish the brownfields revitalization program and to  
2 provide for the continuous appropriation of certain federal funds.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Terms used in this Act mean:

7 (1) "Brownfields revitalization program," a program to provide funding to assist in the  
8 assessment, cleanup, and redevelopment of brownfields sites;

9 (2) "Brownfields site," real property, the expansion, redevelopment, or reuse of which  
10 may be complicated by the presence or potential presence of a hazardous substance,  
11 pollutant, or contaminant;

12 (3) "Real property," residential, commercial, or industrial properties.

13 Section 2. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 The state brownfields revitalization program is hereby established. A brownfields revolving



1 loan subfund and a brownfields assessment and cleanup subfund are created within the water  
2 and environment fund established pursuant to § 46A-1-60. The subfunds shall be maintained  
3 separately; and all money for use in the program shall be deposited into the subfunds, including  
4 all federal brownfields revitalization program grants, all repayments of assistance awarded from  
5 the subfunds, interest on investments made on money in the subfunds, proceeds of discretionary  
6 bond issues allowed by § 46A-1-31, and principal and interest on loans made from the subfunds.  
7 Money in the subfunds may be used only for purposes authorized under federal law. The  
8 subfunds may be pledged or assigned by the district to or in trust for the holders of the bonds  
9 of the district and may be transferred to and held by a trustee or trustees pursuant to § 46A-1-39.

10 Section 3. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 Money from the brownfields revitalization program subfunds shall be disbursed and  
13 administered according to rules promulgated by the Board of Water and Natural Resources  
14 pursuant to chapter 1-26, § 46A-1-65, and the provisions of this Act. The provisions of §§  
15 46A-1-61 to 46A-1-69, inclusive, do not apply to the brownfields revitalization program  
16 subfunds of the water and environment fund or grants and loans from the subfunds made under  
17 the brownfields revitalization program described in sections 2 to 5 of this Act, inclusive.

18 Section 4. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
19 follows:

20 The Board of Water and Natural Resources shall promulgate rules pursuant to chapter 1-26  
21 to implement the provisions of this Act consistent with the requirements of federal law in order  
22 for an approved brownfields revitalization program to become eligible for grant funds from the  
23 United States Environmental Protection Agency. The rules shall include criteria and procedures  
24 for the selection of projects to receive funds from the brownfields revitalization program and

1 for the administration of the program.

2 Section 5. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 The brownfields revitalization program subfunds are hereby continuously appropriated to  
5 the South Dakota Board of Water and Natural Resources. Money received for these programs  
6 may be used only for purposes authorized by the federal Small Business Liability Relief and  
7 Brownfields Revitalization Act (P.L. 107-118) as amended to January 1, 2004.

8 Section 6. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
9 follows:

10 Any eligible entity may establish a brownfields program to prevent, assess, safely clean up,  
11 and sustainably reuse eligible brownfields sites as authorized in the Comprehensive  
12 Environmental Response, Compensation, and Liability Act of 1980, as amended to January 1,  
13 2004, and in the Small Business Liability Relief and Brownfields Revitalization Act, P.L.  
14 107-118 as amended to January 1, 2004.

15 Section 7. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 Any eligible entity establishing a brownfields program may exercise all powers necessary  
18 or appropriate to carry out the purposes of this Act, including the following:

19 (1) To acquire by lease, purchase, gift, condemnation, or other lawful means and hold  
20 in its corporate name or use and control as provided by law both real and personal  
21 property and easements and rights-of-way within or without the corporate limits for  
22 all purposes authorized by this Act or necessary to the exercise of any power granted  
23 in this Act;

24 (2) To convey, sell, give, dispose of, or lease both the personal and real property of the

1 municipality or county as provided by this Act;

2 (3) To exercise the power of eminent domain only as necessary to carry out its purposes  
3 and duties as provided in this Act;

4 (4) To borrow money and to issue certificates, warrants, general obligation bonds and  
5 non-ad valorem tax bonds for purposes of this Act;

6 (5) To accept funds, property, and services or other assistance, financial or otherwise,  
7 from federal, state, and other public and private sources to carry out the purposes of  
8 this Act;

9 (6) To contract or cooperate with any person, the state, or any political subdivision of the  
10 state, any federal agency, or any private or public entity to carry out the purposes of  
11 this Act;

12 (7) To plan, develop, construct, acquire, operate, clean, maintain, repair, alter, renovate,  
13 salvage, demolish, secure, abandon, consolidate, reclaim, or gather data and  
14 information concerning any brownfields site, or any related development, structure,  
15 or facility necessary to carry out the purposes of this Act; and

16 (8) To do and perform all acts authorized in this Act and all other acts necessary and  
17 proper for carrying out and exercising the powers granted by this Act.